

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ED DWAYNE SMITH,

Plaintiff,

v.

UNKNOWN,

Defendant.

No. 2:22-cv-0078 KJN P

ORDER

Plaintiff, a state prisoner at California Medical Facility, wrote a letter to The Honorable John S. Tigar, U.S. District Court, Northern District of California, regarding prison conditions. The Clerk opened a case and transferred the case to this district. It is unclear whether plaintiff intended to initiate a federal lawsuit, and no other pleadings have been filed by the plaintiff. In order to commence an action, plaintiff must file a complaint as required by Rule 3 of the Federal Rules of Civil Procedure, and plaintiff must either pay the required filing fee or file an application requesting leave to proceed in forma pauperis.¹ See 28 U.S.C. §§ 1914(a), 1915(a). The court will not issue any orders granting or denying relief until an action is properly commenced.

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¹ If leave to file in forma pauperis is granted, plaintiff will still be required to pay the filing fee but will be allowed to pay it in installments. If plaintiff did not intend to bring a federal lawsuit, he may file a request to voluntarily dismiss this case.


Plaintiff is provided the opportunity to file his complaint, and to submit an application requesting leave to proceed in forma pauperis or to submit the appropriate filing fee.

In accordance with the above, IT IS HEREBY ORDERED that:

1. Plaintiff is granted thirty days from the date of service of this order to file a complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice;² the complaint must bear the docket number assigned this case; plaintiff must file an original and two copies of the complaint. Plaintiff shall also submit, within thirty days from the date of this order, the application to proceed in forma pauperis on the form provided by the Clerk of Court, or the filing fee in the amount of \$402.00.³ Plaintiff's failure to comply with this order will result in a recommendation that this matter be dismissed; and

2. The Clerk of the Court is directed to send plaintiff the court's form for filing a civil rights action, and the application to proceed in forma pauperis by a prisoner.

Dated: January 19, 2022


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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² A plaintiff may properly assert multiple claims against a single defendant. Fed. Rule Civ. P. 18. In addition, a plaintiff may join multiple defendants in one action where "any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions and occurrences" and "any question of law or fact common to all defendants will arise in the action." Fed. R. Civ. P. 20(a)(2). Unrelated claims against different defendants must be pursued in separate lawsuits. See George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). This rule is intended "not only to prevent the sort of morass [a multiple claim, multiple defendant] suit produce[s], but also to ensure that prisoners pay the required filing fees -- for the Prison Litigation Reform Act limits to 3 the number of frivolous suits or appeals that any prisoner may file without prepayment of the required fees. 28 U.S.C. § 1915(g)." George, 507 F.3d at 607.

³ The \$402.00 is comprised of the \$350.00 filing fee and a \$52.00 administrative fee. If plaintiff is granted leave to proceed in forma pauperis, plaintiff is not required to pay the \$52.00 administrative fee.